

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 23 OF 2024

IN

NOTICE OF MOTION NO.722 OF 2017

Sandip Chotalal Shah

...Petitioner

Versus

Zenal Construction Pvt. Ltd.

...Respondents

WITH

COMMERCIAL SUIT NO.803 OF 2017

WITH

CHAMBER SUMMONS NO.49 OF 2020

WITH

INTERIM APPLICATION NO.1164 OF 2020

IN

COMMERCIAL SUIT NO.803 OF 2017

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Mr. Rohan Sawant a/w Mr. Sushant Arora, Ms. Vaishnavi Adhav and H. Kashyap  
i/b L R & Associates, for the Petitioner.

Mr. Bijal Gandhi i/b M. D. Legal Associates, for Respondent Nos.1 to 4.

Ms. Aneesa Cheema a/w Minhas Joshi i/b Economic Laws Practice, for  
Respondent Nos.5 to 10.

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CORAM : ARIF S. DOCTOR, J.

DATE : 22<sup>nd</sup> DECEMBER 2025

P.C.

1. Learned counsel for the parties have today tendered Draft Minutes of the Order duly signed by the Advocates for the Petitioner and the Respondents. They submit that the Draft Minutes of the Order contemplate the way forward for completion of the said building under the provisions of Development Control

Regulations for Greater Bombay, 1991 ("DCR 1991"). Hence, the following order is passed in terms of the Draft Minutes of the Order.

2. Pursuant to the directions of this Hon'ble Court, M/s. Shetgiri and Associates were appointed to submit Total Estimated Costs required for the completion of construction of the subject building from the existing 8th Floor onwards till the 10th Floor under Development Control Regulations for Greater Bombay, 1991 ("DCR 1991"). Accordingly, M/s. Shetgiri and Associates submitted their report before this Hon'ble Court on 15th December 2025.

3. In view of the report submitted by M/s. Shetgiri and Associates, it is recorded that there are multiple variations between the as-built construction of the subject building and the originally approved plans, including the Commencement Certificates dated 28th September 2006 and 29th March 2011. It is further noted that although a concession approval was granted on 4th September 2014, the said proposal has lapsed and would require validation from BMC, including regularisation of the existing construction.

4. In view of the aforesaid observations, it is further recorded that the project proposal / building proposal, which was required to be submitted by the Project Architect to M/s. Shetgiri and Associates for their review and report, was not submitted. However, it is also recorded that there exists a discrepancy as to whether the proposal would be considered and approved under DCR 1991 or under DCPR 2034. This aforesaid aspect, namely whether the proposal is to be sanctioned under DCR 1991 or is required to be processed under DCPR 2034, shall be considered subject to the sanction to be granted by the BMC on the proposal submitted by the approved architect.

5. Therefore, in order to resolve the aforesaid issues and with the consent of all parties, it is agreed that H. M. Jhaveri, the Project Architect ("Project Architect"), acting through and under the aegis of the Court Receiver appointed by this Hon'ble Court, shall prepare a complete building proposal under DCR 1991 within a period of 30 days from the date hereof and submit the same to the Mumbai Municipal Corporation ("BMC"), in accordance with law, for consideration and approval.
6. Respondent Nos. 5 to 9 (without prejudice to their rights and contentions against Respondent No.1 to 4) agrees to initially bear all costs, charges, fees and expenses payable to the BMC as and when demanded by BMC in relation to the submission and processing of the aforesaid proposal made as set out in paragraph 3 above.
7. Respondent Nos.1 to 4 and Respondent Nos. 5 to 9 herein shall coordinate with the Project Architect and extend all necessary cooperation to ensure that the proposal is prepared and submitted expeditiously.
8. The BMC shall be requested to take a decision on the said proposal in a time-bound manner, preferably within a period of two (2) months from the date of submission of the complete proposal by Project Architect, in accordance with law.
9. All of the aforesaid is without prejudice to the respective rights, remedies, claims and contentions of all parties to the present proceedings. The present minutes shall not amount to violation of the consent terms in any manner.
10. Liberty to apply.

11. Learned counsel are *ad idem* on the fact that the proposal presently is under the provisions of DCR 1991, the BMC is directed to take a decision in respect of the said proposal, preferably within a period of two months from the date of submission.

12. Stand over to **9<sup>th</sup> March 2026**.

[ARIF S. DOCTOR, J.]